

December 23, 1999

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT

SUBJECT: Department of Development and Environmental Services File No. **L98P0025**

AARONWOOD
Preliminary Plat Application

Location: 14220 - 100th Avenue Northeast

Applicant: Lindstrom Development, Inc., *represented by*
Dave Lindstrom and Robert Brandt
6910 - 96th Avenue Southeast
Mercer Island, WA 98040
Telephone: (425)893-8991

King County: Department of Development and Environmental Services, *represented by*
Lance Moreno
900 Oakesdale Avenue Southwest
Renton, WA 98055
Telephone: (206)296-7182 Facsimile: (206)296-7051

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions (modified)
Examiner's Decision:	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application or petition submitted:	July 20, 1998
Complete application:	August 17, 1998

EXAMINER PROCEEDINGS:

Hearing Opened:	October 19, 1999
Hearing Continued for Administrative Purposes:	October 19, 1999
Hearing Closed:	December 17, 1999

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Recreation area; fee-in-lieu
- Surface water drainage

SUMMARY:

Subdivision of 21 lots on 3.44 acres in the Urban Area approved, subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Developer:	Lindstrom Development, Inc. 6910 – 96 th Avenue SE Mercer Island, WA 98040 Telephone: (206) 232-0933
Engineer:	C. Shawn O'Brien 16716 SE 28 th Street Bellevue, WA 98008 Telephone: (206) 746-3993
Location:	14220 – 100 th Avenue Northeast
STR:	SW, NW 20-26-05
Zoning:	R-8-SO (8 dwelling units per acre)
Acreage:	3.44
Number of Lots:	21
Density:	8 dwelling units per acre
Typical Lot Size:	Ranges from 3,500 to 8,000 square feet in area

Proposed Use: Single family residential
Sewage Disposal: Northshore Utility District

Water Supply: Northshore Utility District
Fire District: Number 41
School District: Lake Washington
Complete Application Date: August 17, 1998

2. Except as modified below, the facts set forth in the King County Land Use Services Division's Preliminary Report to the King County Hearing Examiner for the October 19, 1999 public hearing (Exhibit No. 2) are found to be correct and are incorporated herein by this reference.
3. No regulated wetlands exist on the site.
4. A Class 2 stream is located approximately 3 feet from the northeast corner of the subject property. A 100-foot buffer, and a 15 foot setback line from the edge of the buffer, will be shown on the subject plat. The buffer area shall be contained within a sensitive areas tract, designated tract "C".
5. Retention/Detention facilities will be located in tract "B" in the southeast corner of the plat. Collection of surface water from the developed area, and its conveyance to the required detention facilities, where it will be subject to restricted discharge, will alleviate drainage problems previously experienced on the properties to the south. Future development of 100th Avenue Northeast, which will include improved drainage facilities, should also alleviate problems to the south.
6. King County Code Section 21A.14.180 requires residential development of more than 4 units in "R" zones to provide recreation space of not less than 390 square feet per dwelling unit. The recreation area required for 21 lots, the Applicant's current proposal, would be 8,190 square feet. Payment of a fee-in-lieu of recreation space is authorized in certain circumstances, if accepted at the discretion of King County. KCC 21A.14.185. One of the circumstances in which a fee-in-lieu is authorized is when "recreation space provided within a county park in the vicinity will be of greater benefit to the prospective residents of the development".
1. Approximately 270 feet to the south of the proposed plat of Aaronwood is a 29,379 square foot parcel which was deeded to King County for park purposes in 1981. Located within the existing plat of Boyd Farm Estates, this parcel has remained undeveloped since that time. Tract "B" of Boyd Farm Estates is less than one-quarter mile from the plat of Aaronwood, and is accessible without crossing of arterial streets. Evidence presented by the Applicant indicated that residents of Boyd Farm Estates would like to see this parcel developed as a park. However, the King County Parks Department has informed DDES that there are no plans to develop this property. Therefore, it is asserted by DDES that any funds paid by the Applicant for park improvements to this site could not be utilized.

R. W. Thorpe and Associates, on behalf of the Applicant, has provided a reasonable conceptual plan for improvement of the park site within Boyd Farm Estates. The estimated cost to accomplish the suggested improvements is \$43,000. The Applicant has proposed making a

payment to King County, in lieu of providing recreation area, of an amount ranging from \$30,000 to \$37,000, based upon the Applicant's estimate of the value of 8,190 square feet

of the subject property, plus \$5,000, which would otherwise be expended to improve a recreation tract within the plat.

7. Dedication of 8,190 square feet to King County as a recreation area within the plat would eliminate two lots, reducing the number of developed lots which could be developed on this property from 21 to 19.

CONCLUSIONS:

1. Development of the subject property as proposed, subject to the conditions recommended by the Department of Development and Environmental Services, would control surface water run-off from the developed property in a manner which will not exacerbate flooding and soil saturation problems previously experienced by adjacent property owners to the south.
2. The Applicant's proposal for improvement of the 29,379 square foot tract "B" within Boyd Farm Estates as a park would be of greater benefit to the prospective residents of the plat of Aaronwood than providing 8,190 square feet of on-site recreation area. The Applicant's proposal would also provide a significant benefit to the surrounding community.

The policies of the King County Comprehensive Plan and the requirements of the King County Code with respect to maximizing density in the urban area and providing recreation space are best met by the Applicant paying to King County a sum computed in accordance with KCC 21A.14.185, plus \$5,000, to be held and used by the King County Department of Parks solely for the purpose of improvement of tract "B" in Boyd Farm Estates for recreation purposes.

If the King County Department of Parks indicates, at the time of final plat recording, that it does not intend to expend the funds within 2 years of the anticipated date of recording, the Applicant also should provide, on site, a 400 square foot play area, consistent with the requirements of KCC.21A.14.190. The value of any land utilized for the on-site play area should be subtracted from the funds required to be paid to the King County Department of Parks. (The cost of equipment and improvements to the 400 square foot on site play area should not reduce the amount required to be paid to the Department of Parks).

3. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
4. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.

5. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
6. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

DECISION:

Approve the proposed plat of Aaronwood as revised and received March 2, 1999, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-8 zone classification. All lots shall meet the minimum dimensional requirements of the R-8 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS), subject to variance(s) granted by the King County Department of Transportation.
6. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review, subject to variance(s) granted by the King County Department of Development and Environmental Services.

- a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
- b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
- c. The following note shall be shown on the final recorded plat:

" All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #_____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

- d. Core Requirement No. 1: Discharge at the Natural Location.

The applicant has received approval for the requested diversion of surface water within the project (See Variance File L98V0143, dated 12/15/98). The conditions for variance approval shall be satisfied during design and review of the project engineering plans. Due to possible capacity restrictions, off-site improvements may be required within the existing drainage easement to accommodate the 100-year, developed flows.

- e. Core Requirement No. 3: Runoff Control.

Storm water runoff control shall be provided using standard detention design criteria outlined in the manual.

Biofiltration of storm water is also required for water quality enhancement. The size of the proposed drainage tracts may have to increase to accommodate the required detention storage volumes and biofiltration facilities. The runoff control facilities shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for required recreation space in accordance with KCC 21A.14.180.

As specified in section 4.5 of the SWM Manual, roof drain storm water shall be infiltrated or dispersed within the lot area if the soil conditions are favorable. Infiltration of storm water for both lot areas and roadway improvements is recommended if determined to be feasible. A geotechnical report shall be provided to evaluate soil conditions, seasonal depth to groundwater, and other design requirements as outlined in the SWM Manual.

- f. Special Requirement No. 4: Adopted Basin or Community Plans.

The proposed plat is located within the Northshore Community Planning area which contains special P-Suffix conditions related to seasonal construction and significant tree retention. The applicable P-suffix requirements shall be addressed on the final engineering plans.

8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. During preliminary review the applicant submitted a road variance application (File No. L98V0142), regarding intersection spacing, frontage improvements and a reconsideration of sight distances. The variance received conditional approval on 1/13/99. The variance approval allowed for the relaxation of the 1000-foot intersection spacing requirement, waiving the requirement for urban frontage improvements because of the pending CIP project and allowing for the existing sight distances until the CIP improvements are made. The condition imposed by the road variance is to align the plat entrance with an existing intersection or driveway on the opposite side of 100th Avenue NE.
 - b. 100th Place NE shall be improved as an urban subaccess street.
 - c. Tract A shall be improved as a private joint use driveway to serve a maximum of two lots. The served lots shall have undivided ownership of the tract and be responsible for its maintenance. As specified in KCRS 3.01C, improvements shall include an 18 foot paved surface and a minimum tract width of 20 feet. Drainage control shall include a curb or thickened edge on one side. Access to drainage Tract B shall be part of the drainage tract, with an easement across the access road for access to lot #11.
 - d. Twenty feet of right-of-way shall be dedicated along 100th Avenue NE to provide 50 feet from centerline.
 - e. As required by KCRS 5.03, street trees should be included in the design of all road improvements.
 - f. Street illumination shall be provided at intersections with arterials in accordance with KCRS 5.05.
 - g. Preliminary designs of the CIP project on 100th Avenue NE show a moderate elevation difference between the anticipated road surface and plat, requiring a slope easement. An 8-foot wide Public Road Easement shall be dedicated along the plat frontage for the slope transition area. If on-site grading or placement of structural fill reduces the slope to 3:1 (horizontal: vertical) or less, or the applicant provides a rockery or retaining wall to the satisfaction of the review engineer, the slope transition easement will not be required.
 - h. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
9. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.

10. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
11. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
12. There shall be no direct vehicular access to or from 100th Avenue NE from those lots which abut it. A note to this effect shall appear on the engineering plans and final plat.
13. The Class 2 stream buffer shall be placed in a Sensitive Areas Tract (Tract C) with a minimum 100 foot buffer of undisturbed vegetation extending from the Class 2 stream with salmonids, plus a 15 foot building setback line from the edge of the buffer.
14. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing (e.g., special use permit) from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

15. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
16. The requirements of KCC 21A.14 for recreation space (KCC 21A.14.180-200) shall be met as follows: The Applicant shall pay to the King County Department of Parks a sum computed in the manner provided by KCC 21A.14.185 plus \$5,000, which shall be held and utilized by King County solely for the purpose of providing improvements and maintenance for the park site at tract "B" in the plat of Boyd Farm Estates.

If development of tract "B" in the plat of Boyd Farm Estates is planned by the King County Department of Parks to commence within two years of recording of the plat of Aaronwood, the Applicant shall also provide an on-site play area, with improvements, as required by KCC 21A.14.190. In the event an on-site play area is provided, the area of the on-site play area shall be credited against the fee-in-lieu paid pursuant to the preceding paragraph. The play area shall be designed and furnished consistent with KCC 21A.14.190, and shall meet the following requirements:

- a. An overall conceptual plan shall be submitted for review and approval by DDES with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
 - b. A detailed play area plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
 - c. A performance bond for play area improvements shall be posted prior to recording of the plat.
17. A homeowners' association or other workable organization shall be established to the satisfaction of DDES, which provides for the ownership and continued maintenance of the play area, if provided, and open space areas and sensitive area tracts.
 18. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

ORDERED this 23rd day of December 1999.

James N. O'Connor
King County Hearing Examiner

TRANSMITTED this 23rd day of December, 1999, to the parties and interested persons shown below:

Mark Bergam	Kenneth A. Mortland
Greg Borba	Carol Cameron
Steve Bottheim	C. Shawn O'Brien
Laura Casey	Gary Photakis
Mr. & Mrs. Bruce Christenson	Jonathan & Samantha Pressman
Kim Claussen	Carol Rogers
Roger Dorstad	Seattle/King Co. Health Dept.
Ken & Kim Fox	Robert Sise
Jean Johnson	John T. Skomorowski
Eleanor Moon	Steve Townsend
Kristen Langley	Tina Watson
Dave Lindstrom	Alec Williamson
Carolyn K. Crawford	Robert Brandt
Rocco & Judy Maccarrone	
Aileen McManus	
Ray Slater	
Lance Moreno	

MINUTES OF THE OCTOBER 19, 1999 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L98P0025 – AARONWOOD:

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were Lance Moreno and Mark Bergam. Participating in the hearing and representing the Applicant R.W. Thorpe and David Lindstrom. Interested person Kenneth Mortland also participated in this hearing.

The following exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services File No. L98P0025
Exhibit No. 2	Department of Development and Environmental Services preliminary report, dated October 19, 1999
Exhibit No. 3	Application dated July 20, 1998
Exhibit No. 4	Environmental Checklist, dated June 20, 1998
Exhibit No. 5	Declaration of Non-Significance, dated August 9, 1999
Exhibit No. 6	Plat Map dated March 1, 1999
Exhibit No. 7	Land Use Map 418W
Exhibit No. 8	Assessors Maps NW 20-26-5 and NE 19-26-5
Exhibit No. 9	Level One Drainage Analysis received July 20, 1998
Exhibit No. 10	Off-Site Drainage Analysis dated November 13, 1998
Exhibit No. 11	Wetland Delineation and Evaluation received November 13, 1998
Exhibit No. 12	Surface Water Design Manual Variance dated December 15, 1998
Exhibit No. 13	King County Road Standards variance dated January 13, 1999
Exhibit No. 14	King County Park System On-Site Recreation Space Review document dated October 12, 1999
Exhibit No. 15	Road Services Division Reconsideration of variance, dated June 11, 1999
Exhibit No. 16	R. W. Thorpe and Associates, Inc., firm background and resume
Exhibit No. 17	Notice of Decision, File No. L97VA029, dated August 19, 1998
Exhibit No. 18	Letter from R. W. Thorpe to Lance Moreno and Lori Hoover, dated October 14, 1999
Exhibit No. 19	Written testimony of Kenneth Mortland with photos attached, dated October 19, 1999.
Exhibit No. 20	Map of proposed open space in northwest corner of subject property

Exhibit No. 21 Color photos of subject property
Exhibit No. 22 Copy of quit claim deed, dated February 9, 1981

The following exhibits were offered and entered into the record pursuant to administrative continuance:

Exhibit No. 23 Letter from R. W. Thorpe and Associates, Inc., concerning feasibility of improving recreational area on tract "B"
 of Boyd Farm Estates
Exhibit No. 24 Letter from DDES recommending on-site recreation area

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before January 6, 2000***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before January 13, 2000***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

